

<p>CITY OF SAN JOSÉ, CALIFORNIA Department of Planning, Building and Code Enforcement 801 North First Street, Room 400 San José, California 95110-1795</p> <p style="text-align: center;">STAFF REPORT</p>	Hearing Date/Agenda Number P.C. 7/14/04 Item:
	File Number CP04-022
	Application Type Conditional Use Permit
	Council District 10
	Planning Area Edenvale
	Assessor's Parcel Number(s) 687-21-046
PROJECT DESCRIPTION Completed by: Lesley Xavier	
Location: Southeast corner of Calero and Cahalan Avenues	
Gross Acreage: 5.31 Net Acreage: 5.31 Net Density: n/a	
Existing Zoning: R-1-8 Single-Family Residence District Existing Use: Religious assembly	
Proposed Zoning: No change Proposed Use: Conditional Use Permit for 3 wireless communication antennas in an existing church cross, increasing the height of the cross to 50 feet, and the placement of a new 128 square foot equipment shelter.	
GENERAL PLAN Completed by: LX	
Land Use/Transportation Diagram Designation Public/Quasi-Public	Project Conformance: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> See Analysis and Recommendations
SURROUNDING LAND USES AND ZONING Completed by: LX	
North: Single-Family Residential	R-1-8 Single-Family Residence
East: Single-Family Residential	R-1-8 Single-Family Residence
South: Single-Family Residential	R-1-8 Single-Family Residence
West: Single-Family Residential	R-1-8 Single-Family Residence
ENVIRONMENTAL STATUS Completed by: LX	

CONTACT/ APPLICANT	OWNER	
Peacock Associates Attn: Mark Gagne 5855 Doyle Drive, Suite 108 Emeryville, CA 94608	The Roman Catholic Bishop of San José 794 Calero Avenue San José, CA 95123	
PUBLIC AGENCY COMMENTS RECEIVED		Completed by: LX
Department of Public Works ✍ No comments.		
Other Departments and Agencies ✍ None.		
GENERAL CORRESPONDENCE		
✍ None.		
ANALYSIS AND RECOMMENDATIONS		

BACKGROUND

The developer, Metro PCS, is requesting a Conditional Use Permit to allow the installation of three wireless communication antennas concealed inside a replacement cross that is located on top of the Santa Teresa Catholic Church. The subject site is bounded by single-family detached residential uses to the north, east, south and west. The request also includes the placement of a 128 square foot equipment shelter located near the southeast corner of the building at ground level. This request is being made because the Zoning Ordinance requires a Conditional Use Permit for wireless communication antennas in the R-1-8 Residence Zoning District.

In addition, the proposed project does not include either a temporary or permanent emergency back-up generator. In the event the installation of such equipment is proposed in the future, such a proposal would be subject to a Special Use Permit and additional environmental review.

GENERAL PLAN CONFORMANCE

The subject site is designated Public/Quasi-Public on the San José 2020 General Plan Land Use/Transportation Diagram. This category is also used to designate lands used by some private entities, including public utilities and the facilities of any organization involved in the provision of public services such as gas, water, electricity, and telecommunications. The proposed project is for a telecommunication facility. Therefore, it conforms to the General Plan.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from environmental review under Section 15303 of the provisions of the California Environmental Quality Act (CEQA). Under Section 15303, Class 3 exemptions consist of construction and location of new, small facilities or structures; installation of small new equipment and facilities in small structures; and, the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The proposed project is exempt in that it consists of minor construction and installations and minor conversions of use consistent with the type of projects exempt from CEQA.

ANALYSIS

The project was analyzed to determine its conformance to the Zoning Ordinance and to City Council Policy 6-20, Land Use Policy for Wireless Communications Antennas, which provides criteria for siting such facilities.

Conformance to the Zoning Ordinance

The location of the proposed antennas and equipment conform to the required setbacks of the R-1-8 Residence zoning district, more specifically a 25 foot front, 5 foot side, and 25 foot rear setback requirement. The proposed antenna/cross is located on the top of a building that is setback from the front property line 390 feet, from the side property line 62 feet, and from the rear property line 99 feet. Additionally, under section 20.80.1900, specifically related to wireless communication antennas, new antenna structures mounted on existing buildings or structures 60 feet in height or less may be increased over the required maximum height of the zoning district in which it is located provided that all of the following criteria is met:

In this case, the placement of the antennas will be inside of a new cross structure located on the top of the existing building and therefore will be architecturally integrated into the structure and will not add visual clutter to the structure. The existing cross, which measures approximately 44 feet from the ground to the top of the cross, will be replaced with a larger cross thus increasing the height. The top of the new cross will be at 50 feet. Thirty-five percent (35%) of the existing structure is approximately 15 feet and the new cross will add 6 feet to the total height. Therefore, the new cross does not exceed the 60-foot height limit and does not exceed 35% of the existing building height. The proposed project meets the above stated criteria and therefore is in compliance with the Zoning Code.

Conformance to City Council Policy 6-20 for Wireless Communications Antennas

The City Council policy generally discourages wireless communications facilities on residential properties except those developed solely with parks, schools, public utilities, and churches. The proposed project will locate three wireless communications antennas on an existing church building in a residential zoning district.

The Council policy requires building mounted antennas be located a minimum of 35 feet horizontally from any property with a residential use or residential General Plan designation. The antennas are located approximately 182 feet from the closest adjacent residential structure and the closest residentially designated property as shown on the General Plan Land Use/Transportation Diagram. Therefore, the project is consistent with Council policy.

The Council Policy requires building mounted antennas to be located in a manner that minimizes visual impacts and is architecturally integrated into the structure. It also requires ancillary equipment to be screened. The proposed antennas will be inside of a new cross structure located on the top of the existing building and therefore will be architecturally integrated into the structure. (See attached photo simulations) The ancillary equipment will be located in an existing enclosed equipment area that is fenced from view with a 7-foot high wood fence.

PUBLIC OUTREACH

Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the subject site. The Planning Commission Agenda is posted on the City of San José website, which includes a copy of the staff report. Staff has been available to discuss the project with

1. This site has a designation of Public/Quasi-Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-8 Single-Family Residence Zoning District.
3. The subject site is 5.31-acres in size and is owned and developed with a religious assembly facility and a surface parking lot.
4. The proposed project includes installation of three wireless communication antennas concealed inside of a cross structure located on top of an existing building.
5. The subject Zoning District, R-1-8 Single-Family Residence, has a height limit of 35-feet.
6. Section 20.80.1900A of the Zoning Ordinance allows the maximum height of wireless communications antenna to be increased over the required maximum height of the zoning district in which it is located up to a maximum of 60-feet.
7. The proposed antennas will increase the overall height of the existing structure by 6 feet.
8. The project site is located in the R-1-8 Residence zoning district which establishes front, rear and side setbacks of 25, 20 and 5 feet respectively.
9. The City Council Policy 6-20: Land Use Policy for Wireless Communication Facilities recommends that new antenna structures provide a 35-foot setback from adjacent residential uses.
10. The proposed improvements are located approximately 182 feet from the closest residential property line.
11. Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.
12. The proposed equipment enclosure will effectively screen the equipment with a new 7-foot tall wooden fence.

3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project is consistent with City Council Policy 6-20: Land Use Policy for Wireless Communication Facilities.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

automatically expiring regardless of any other expiration date contained in this permit. Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to the approved development plans entitled, "Metro PCS Santa Teresa Catholic Church SFA-Z02-0601-A" dated May 24, 2004, on file with the Department of Planning, Building and Code Enforcement.
2. **Colors and Materials.** All building, structures and fencing colors and materials are to be those specified on the approved plan set.
3. **Cross.** The replacement cross shall be painted a color that matches the exterior colors of the existing building.
4. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
5. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
6. **Generators.** This project does not permit the use temporary or permanent emergency back-up generators unless otherwise approved by the Director of Planning.
7. **Lighting.** This permit allows no on-site lighting.
8. **Outside Storage.** No outside storage is permitted.
9. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.

- b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
- 10. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
 - 11. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings, structures, fencing, and wall surfaces within 48 hours of defacement.
 - 12. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
 - 13. **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements and related equipment/enclosures associated with this permit within 30 days.
 - 14. **Co-location.** The owner(s) and operators of the proposed antenna support structure shall allow the co-location of PCS antennas for other providers. Other wireless providers shall also be allowed to add on to existing at grade equipment enclosures.

CONDITIONS SUBSEQUENT

2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.